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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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October 5, 2009

The Honorable Eric H. Holder  
Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Dear Attorney General Holder,

I write to express my concern that President Obama's previous advocacy on behalf of and work with the Association of Community Organizations for Reform Now, also known as ACORN, may present a conflict of interest for any Department of Justice consideration of criminal allegations against ACORN. I therefore request that you appoint a Special Counsel to oversee any Department investigation of ACORN.

Reports of President Obama's ties to ACORN and ACORN affiliated individuals and organizations date back over 15 years. These ties include:

- In 1991 President Obama took time off from his law firm to run a voter-registration drive for an organization called Project Vote. At the time this organization was a partner of ACORN. The organization was subsequently absorbed by ACORN.<sup>1</sup>
- In 1995 President Obama served as ACORN's lawyer when it successfully challenged the constitutionality of the state's refusal to implement the federal "Motor Voter" law.<sup>2</sup>
- A 1995 article published in the *Chicago Reader* newspaper, written when President Obama was running for his first term as state senator, stated that "Obama continues his organizing work largely through classes for future leaders identified by ACORN and the Centers for New Horizons on the south side [of Chicago]."<sup>3</sup>
- The President reportedly continued his work in support of ACORN for a number of years, participating in its training programs. The President also served on the Board of

<sup>1</sup> John Fund, "John Fund on President Obama's denied association with Acorn," *The Wall Street Journal*, at <http://online.wsj.com/article/SB10001424052970204488304574429061095211886.html>.

<sup>2</sup> John Fund, "A Victory Against Voter Fraud," *The Wall Street Journal* (April 28, 2008).

<sup>3</sup> Hank De Zutter, "What Makes Obama Run?" *Chicago Reader* (December 8, 1995).

Directors for two foundations that provided private funding to a number of organizations, among which the Chicago ACORN chapter was a recipient.<sup>4</sup>

- As recently as February 2008 the President's own campaign website carried an announcement of an endorsement from ACORN's political action committee that included the following quote from the then candidate:

"I come out of a grassroots organizing background. That's what I did for three and half years before I went to law school. That's the reason I moved to Chicago was to organize. So this is something that I know personally, the work you do, the importance of it. I've been fighting alongside ACORN on issues you care about my entire career. Even before I was an elected official, when I ran Project Vote voter registration drive in Illinois, ACORN was smack dab in the middle of it, and we appreciate your work."<sup>5</sup>

Under Department regulations the Attorney General "will" appoint a special counsel if he or she determines that a given criminal investigation is warranted, the investigation or prosecution "would present a conflict of interest for the Department or other extraordinary circumstances," and "under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."<sup>6</sup>

These reports about the President's ties to ACORN appear to place any investigation of ACORN squarely within the intended use of the Special Counsel regulation. ACORN has now been subject to investigation in 20 states. ACORN and its employees have been charged with over 50 different counts of election-related fraud. The organization has paid over \$1 million in restitution to avoid criminal prosecutions. A recent undercover video from private citizens appears to show ACORN employees willing to conspire with persons they believed to be involved in prostitution and trafficking in persons, indicating that the employees were prepared to assist in the interstate and international trafficking of young women and girls for sexual purposes. Both the Census Bureau and the IRS have severed their respective relationships with the organization. In recent weeks ACORN and the organization's activities have received significant public attention, and it is clear that an investigation into the organization is warranted.

I am very concerned that the President's previous advocacy on behalf ACORN, his work with ACORN, and ACORN's support of his candidacy create, at the least, an appearance of a conflict of interest for Department officials, particularly political appointees who serve at the pleasure of the President. The President's ties to ACORN could place improper pressure on the

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<sup>4</sup> Stanley Kurtz, "Inside Obama's Acorn," *National Review Online* (May 29, 2008), at <http://article.nationalreview.com/print/?q=NDZiMjkwMDczZWISODdjOWYxZTIzZGIyNzEyMjE0ODI=>.

<sup>5</sup> Sam Graham-Felson, "ACORN Political Action Committee Endorses Obama," (Feb. 21, 2008), at <http://my.barackobama.com/page/community/post/samgrahamfelsen/gGC7zm> (last visited Sept. 24, 2009).

<sup>6</sup> 28 C.F.R. Part 600.

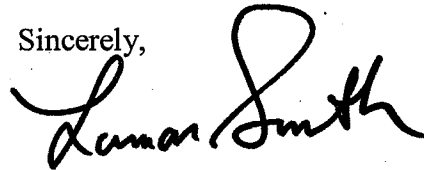
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Department's political appointees to reach conclusions they believe to be favored by the President. In addition, the President's ties create the appearance of improper political influence that will otherwise taint any conclusions the Department may reach with regard to whether or not to investigate and prosecute ACORN employees or affiliated individuals.

The allegations against ACORN are serious and involve a broad range of potentially criminal activities. Given the serious nature of these allegations it is important to ensure that the Department conducts an unbiased, objective review of the allegations that is free from the appearance of improper influence or sympathies, as contemplated by the Department's regulations.

Thank you for your attention to this important matter and I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Lamar Smith". The signature is fluid and cursive, with the first name "Lamar" and last name "Smith" clearly distinguishable.

Lamar Smith  
Ranking Member

cc: The Honorable John Conyers, Jr.